

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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DEVELL MOORE,

Case No. 3:13-cv-00390-LRH-WGC

Plaintiff,

ORDER

v.

LEGRAND, et al.,

Defendants.

This counseled habeas matter under 28 U.S.C. § 2254 comes before the court on respondents' motion to dismiss (ECF No. 22) as well as on petitioner Devell Moore's request for leave to file a third amended petition (ECF No. 26).

Moore's counsel requests leave to file a third amended petition, explaining that he now believes that he should reduce the allegations in ground 3 to the few specific instances of ineffective assistance of counsel that are set forth in Moore's *pro se* original and first amended petitions. *Id.* at 4. Having reviewed the timeline of filings in the federal docket, and mindful that Moore is serving three consecutive thirty-five years to life sentences, the court shall grant the request to file a third amended petition. The court makes no decision at this juncture as to any timeliness or relation back issues. Respondents' motion to dismiss shall therefore be dismissed without prejudice to renew the motion after Moore files a third amended petition.

IT IS THEREFORE ORDERED that petitioner's request for leave to file a third amended petition (ECF No. 26) is **GRANTED**. Petitioner shall file his third amended petition within thirty (30) days of the date of this order.

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2 **IT IS FURTHER ORDERED** that respondents shall have **forty-five (45) days**
3 after service of the third amended petition within which to answer, or otherwise respond
4 to, the amended petition.

5 **IT IS FURTHER ORDERED** that petitioner shall have **thirty (30) days** after
6 service of the answer or responsive pleading to file and serve his response.

7 **IT IS FURTHER ORDERED** that respondents' motion to dismiss (ECF No. 22) is
8 **DENIED** without prejudice.

9 **IT IS FURTHER ORDERED** that petitioner's motion to accept late filing (ECF No.
10 27) is **GRANTED**.

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12 DATED this 3rd day of February, 2016.

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15 LARRY R. HICKS
16 UNITED STATES DISTRICT JUDGE
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